

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**FREE CONFERENCE**

**Call to Order:** By **Chairman John Hertel**, on March 17, 1999 at  
3:00 A.M., in Room 442 Capitol.

**ROLL CALL**

**Members Present:**

Sen. John Hertel, Chairman (R)  
Rep. Robert Story, Chairman (R)  
Sen. Jack Wells (R)  
Sen. Mignon Waterman (D)  
Rep. William Rehbein (R)  
Rep. George Golie (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:**

Connie Erickson, Legislative Branch  
Mary Gay Wells, Committee Secretary  
Janice Soft, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s): SB 325

*{Tape : 1; Side : A; Approx. Time Counter : 0}*

**EXECUTIVE ACTION ON SB 325**

**Discussion:** **SEN. HERTEL** explained that the issue before the  
committee was the school trustee election. It was brought to his

attention by the House from **REP. ROBERT STORY** the problem that exists. The intent of the bill was to allow trust election by acclamation only if the positions to be filled were the same number as those who had filed. The problem arose if there were two positions open and only one person filed. This then would necessitate a write-in and would require the election to continue. An amendment has been presented **EXHIBIT (1) SB032503.aem** that would take care of this problem.

**REP. STORY** said the amendment basically deals with line 11 in the bill. It states: "If the number of candidates filing for a position or filing a declaration of intent as a write-in candidate is equal to the number of positions to be elected and there is no other reason for the election, the election will not be held." The concern was, if only one filed and there were two positions opened, then by acclamation, one seat would remain vacant.

*{Tape : 1; Side : A; Approx. Time Counter : 2.3}*

**SEN. MIGNON WATERMAN** said that the county has to know 10 or 15 days ahead when there is a write-in candidate. If there has not been a write-in candidate declaration, then how could they hold the election?

**SEN. STORY** said that there is an exception to that write-in clause of 15 days prior notification. The last section says that if no one has filed for the office and no one has filed to be a write-in candidate, then a person could write in any name he/she would chose. If there is a declaration of intent to be a write-in, then a person may not just write in any other name for that position.

*{Tape : 1; Side : A; Approx. Time Counter : 3.5}*

**SEN. JACK WELLS** asked the committee to look at number (4) page 1, line 14. Should that read "line 15"? **SEN. HERTEL** said that is correct; it should read "line 15".

**REP. BILL REHBEIN** asked if two or three days before the election the candidate just drops out, what happens? The election has been canceled because there was one candidate for each position and no write-ins were needed. Under the old law, that position could have been filled with a write-in. With this bill, that option has been eliminated.

**REP. GEORGE GOLIE** and **REP. REHBEIN** spoke looking at different options but nothing firm came up.

**SEN. HERTEL** asked **Connie Erickson** if she had come up with anything.

*{Tape : 1; Side : A; Approx. Time Counter : 6.5}*

**Ms. Erickson** said that under this bill, concerning the previous scenario, the trustees would then appoint. Had this sort of thing happened under the old law, there would still be the possibility of a write-in.

**SEN. WELLS** asked at what point is the election canceled in this bill? Also, how many days before the election is that cancellation made?

**SEN. HERTEL** says the law specifically states there be 15 days before the election for filing. It would seem that immediately after this point, the declaration of no election could be made.

Several questions were raised about the printing of ballots, the posting of the election, etc.

**Ms. Erickson** said that the school election has to be called 40 days in advance. **REP. STORY** said that an election cannot be called off before the 15 day point even if each position has been filed for.

*{Tape : 1; Side : A; Approx. Time Counter : 10}*

Comments were made about days concerning different things that could happen. Even a filed write-in would not have their name appear on the ballot. This would not have anything to do with the preparation of the ballot. The date of the printing could not be agreed upon. A person can file, under school law, up to 40 days before the election. The ballot could be printed after that point and the ballot would not change.

*{Tape : 1; Side : A; Approx. Time Counter : 13}*

**REP. GOLIE** said the Superintendent of Great Falls told him the ballots had to be printed 11 days out in order for them to be sent to the absentee ballot voter.

**SEN. WATERMAN** said that is another issue that has not been discussed. People would start voting 11 days before the set election date. There could be four days in which to cancel the election, but the ballots are already printed.

**REP. GOLIE** said the printing of the ballots is a minor expense. The Superintendent said he needed to know by March 26 in order to

call off the election that is scheduled for April 6. That is about 10 days out.

**SEN. WATERMAN** felt for rural communities, this bill could be helpful, but for a big district she was not so sure.

**SEN. HERTEL** said there are issues to be dealt with, but all the members were supposed to be at another meeting. He suggested **Ms. Erickson** see what she could do to put something together. He suggested the committee meet tomorrow at 7:30 p.m. on March 18, 1999.

**They adjourned at 3:40 p.m. to reconvene at 7:30 p.m. on 3-18-99.**

*{Tape : 1; Side : A; Approx. Time Counter : 18; Comments : This tape starts again for the 2nd meeting and continues for only 10 more minutes. No more minute tapes will be put in.}*

**SEN. HERTEL** has given the committee some papers that show election deadlines in statutes **EXHIBIT (2)** and a set of amendments **EXHIBIT (3)**. You will notice on the amendment, number (4), notice must be given no later than ----- days before the election. That is the main thing for the committee to do this morning. The committee must figure out what day should be put in that blank.

**Ms. Erickson** said the election deadlines come from both Title 13 and Title 20. These are the election deadlines that pertain to school elections. Fifteen days before the election is the day of declaration of intent for write-in candidates and has to be filed with the school district clerk. Once the district clerk knows who has filed these declarations, the school district clerk prepares the ballot and arranges for printing. The ballots have to be ready for absentee voting 11 days before the election.

**SEN. HERTEL** asked the committee to look at the amendments and specifically number (4). Notice must be given no later than 14 days before the election.

**SEN. WATERMAN** said the exception is violated here. **Ms. Erickson** said Title 20-20-102 says "should there be a conflict between the requirements of Title 13 and the provisions of this Title regulating school elections, the provisions of this Title shall govern(the school election laws)."

**SEN. HERTEL** asked for suggestions.

**SEN. STORY** said the election is on Tuesday, April 6, so going back 11 days puts that on March 26.

**SEN. WELLS** felt that two weeks, 14 days, would be a good time. That would be plenty of time before the 11th day when the printing is done and it would be the day after the deadline for the declaration of intent. At that point, the school board could declare there would be no election.

**REP. STORY** said that would be fine as far as he was concerned.

**REP. REHBEIN** said if the way the bill is drafted, with the intent to save school districts money, is more important than a person's constitutional right to vote, then he could agree with what is being done here. That is a problem for him, though.

**SEN. WELLS** asked for an explanation of why it would go against a person's constitutional right to vote. **REP. REHBEIN** said that if you read the exception "if candidate dies, withdraws, or is charged with felony offense prior to election, declaration of intent may be filed after deadline but no later than 5 p.m. on day before election", this would be overruled with the passage of this bill.

**SEN. WATERMAN** asked how long does a big district take to print the ballots, because if they wait until the 14th day, they would not have them ready by the 11th day for absentee balloting. **REP. GOLIE** read from a letter from his Superintendent "by next Friday, March 19, we will start printing the ballots at a cost of \$750. On March 26, we will have the voter registration record..." What he means is for this year, it will already be printed at a cost of \$750, but there would still be a substantial savings for the district.

**Motion/Vote:** **SEN. WELLS** moved that SB 325 BE AMENDED (SB032501.ace) WITH THE 14 DAYS INSERTED. Motion carried 5-1 with **SEN. WATERMAN** voting no.

**ADJOURNMENT**

Adjournment: 3:40 A.M. 3-17-99  
7:50 A.M. 3-18-99

---

SEN. JOHN HERTEL, Chairman

---

MARY GAY WELLS, Secretary

JH/MGW